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HOUSE BILL 3292  
By Patton

AN ACT to amend Tennessee Code Annotated, Title 68, Chapter 212, relative to HAZARDOUS MATERIALS.

WHEREAS, emergency incidents involving the release of hazardous materials are increasing at a rapid rate in the industrially expanding regions of Tennessee; and

WHEREAS, the response to these types of incidents is beyond the ordinary duties and responsibilities of Tennessee municipalities and their various departments and affiliated organizations, such as fire departments, emergency medical services, hazardous materials response teams, police departments, public works departments, and emergency management agencies; and

WHEREAS, the supplies and equipment purchased and/or used during hazardous material responses are a continuously increasing expense for the municipalities; and

WHEREAS, it is necessary to assess responsibility and liability for reimbursement to the cities for responding to hazardous materials incidents to various persons or companies involved in the manufacturing, storage, use, handling, shipping, transportation and distribution of such hazardous materials irrespective of the fault of any one party; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 212, is amended by adding the following as an appropriately designated new part:

Section 1. Notwithstanding any other provision of law to the contrary, It shall be unlawful for any person, firm or corporation to release or cause to be released, burn or cause to be burned, emit, spill, or leak any hazardous material, as defined herein.

Section 2. For the purposes of this act, unless the context otherwise requires,

(1) "Hazardous Material" means any substance or material leakage, release, seepage, or emission of which, due to its form, concentration, quantity, location, or other characteristics, as determined by the commissioner of environment and conservation or the commissioner's designee, is likely to pose an unreasonable and inordinate risk to the life, health or safety of persons or property or to the ecological balance of the environment. "Hazardous Material" further includes, but is not limited to, explosives, reactive, flammable and combustible liquids, compressed gasses, flammable and water reactive solids, oxidizers and peroxides, poisons, radioactive materials, biohazards waste, or otherwise regulated materials, or any other substance determined to be dangerous, hazardous, or toxic under any federal or state law, statute or regulation.

(2) "Hazardous Material Incident" means the potential leakage, release, seepage, or emission of any substance or material defined as "Hazardous Material" as defined in this act.

Section 3. Any persons, firms, corporations, or other entities owning, shipping, or in the immediate control or possession of hazardous materials involved in any hazardous materials incident shall bear full responsibility, and be jointly and severally liable, for any and all costs associated with the response to abatement, handling, and cleanup of such hazardous materials, as well as the remediation of any consequence

associated with such incident. All such costs shall be reimbursed to the municipality or county in which such incident occurs, and shall include, but not be limited to, the costs and expenses incurred by the fire department; the hazardous materials response team, if any; the labor cost of all personnel involved in the abatement or cleanup of the incident, including workers compensation benefits, fringe benefits, and administrative overhead or any other expenses; medical expenses, whether immediate or long-term, of personnel exposed to hazardous material; costs of equipment operation, maintenance, repair or replacement, equipment rental; all costs of materials required for cleanup incurred by the municipality or county involving hazardous materials abatement; the cost of any labor and materials expended by retaining or requesting other parties or entities to assist in the cleanup and abatement, as well as repair, mediation or remediation of any nature whatsoever, including cost incurred by other municipalities or agents who respond to the hazardous materials incident through mutual aid or automatic aid agreements. In addition, all such parties shall be responsible for, and shall promptly pay any and all such costs incurred by third parties by reason of such hazardous materials incidents, whether the same are billed to, and paid by, the municipality or county or not.

Section 4. Reimbursement shall be due and payable thirty (30) days from the date of an invoice prepared by the municipality, county, or any appropriate hazardous materials response team. Accounts that exceed the thirty (30) day limit shall bear interest charges at a rate to be established by the department of environment and conservation.

Section 5. Nothing in this act shall relieve any party from any other obligation or responsibility that it might otherwise have under law or equity.

Section 6. In addition to the reimbursement of costs as set forth in this act, any person, firm, corporation, or other entity who causes a hazardous materials incident, as

defined in this act, shall be subject to a monetary penalty of five hundred dollars (\$500) for each such offense.

SECTION 2. The commissioner is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.